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Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

Logie W. Talley,

Petitioner,

v.

The Housing Authority of Columbus, Georgia and the City of Columbus, Georgia

Respondent.

On Petition For Writ of Certiorari

From The United States Court of Appeals for the Eleventh Circuit

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INTRODUCTORY STATEMENT

The undisputed facts in this case establish that the Housing Authority of Columbus, Georgia, the respondent, in 1994 brought a condemnation action in the Superior Court of Muscogee County State of Georgia regarding the property owned by the petitioner, Logie W. Talley. The property was to be used for an urban renewal project for public use. Judge E. Mullins Whisnat awarded condemnation in favor of the respondent. As was stated by the United States District Court for the Middle District of Georgia Columbus Division and the United State Court of Appeals for the Eleventh Circuit, the condemned property was to be used for an urban development renewal project for public use authorized under Georgia Law. The respondent seized the property in question for more than 4 years and never used the property for anything, not even the urban development renewal project for which it was condemned. The respondent refused to return the subject property back to the petitioner. The petitioner was never given the opportunity to develop his own property by the Housing Authority of Columbus, Georgia or the City of Columbus, Georgia in accordance with the proposed plan which is a requirement under Georgia State law. See McCoy v. Housing Authority 246 Ga. 547, 272, S.E. 2d. 247 (1980).

On May 21, 2004, the petitioner filed a complaint in the United States District Court for the Middle District of Georgia Columbus Division. The primary issues in this case concern the actions taken by the respondent after the condemnation of the petitioner's private property. The respondent sold the subject property to a private citizen for his own private use. The previously mentioned courts all concluded that they lacked subject matter jurisdiction to consider the petitioner's claim. The United States District Court and the State court dismissed the petitioner's case and granted the respondent's motion for summary judgment. The United States Court of Appeals for the Eleventh Circuit concluded that the District Court committed no reversible error in concluding that it lacked subject matter jurisdiction to consider the petitioner's claim. The United States Court of Appeals for the Eleventh Circuit stated that they only addressed the jurisdictional basis for the District court's decision.

The Court of Appeals of Georgia concluded that the respondent was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel. The Court of Appeals of Georgia, however, concluded that the respondent was entitled to summary judgment on some other grounds. The Court of Appeals of Georgia concluded that the respondent was entitled to summary judgment on the petitioner's alleged claim by the Court of Appeals of Georgia that the respondent abandoned any public use of the property and sold it to a private citizen for other uses. The record shows that there was no claim filed in court by the petitioner that the respondent abandoned any public use of the subject property and sold it to another private citizen for other private uses. The record shows that the respondent never used the subject property for public use of any kind. Therefore, there was nothing for the respondent to have abandoned. See Housing Authority of City of Atlanta, Ga. v. Johnson, S.E. 2d. 891.

The Court of Appeals of Georgia denied the petitioner's motion for reconsideration on April 26, 2006. The record shows that the petitioner filed an application for certiorari on the 28th day of April, 2006. Obviously, this document had been misplaced by the courts if it arrived late. This was the only application for certiorari filed with the Supreme Court of Georgia by the petitioner. The application for certiorari was dated by the petitioner April 28, 2006 and was postmarked the 28th day of April, 2006 by the United States Postal Service.

In any event, the Supreme Court of Georgia notified the petitioner in writing that his case had been placed on the docket. The Supreme Court of Georgia accepted briefs from the petitioner and the respondent. The Supreme Court of Georgia accepted $80.00 from the petitioner for filing his case. The Supreme Court of Georgia held the case for 121 days and dismissed the petitioner's case for untimely filing even though the case was filed by the Supreme Court of Georgia itself. This action by the Supreme Court of Georgia prevented the petitioner from filing a petition for Writ of Certiorari with the United States Supreme Court from the Court of Appeals of Georgia. The clerk of the Supreme Court of Georgia receives

documents for filing with the court and has the authority to reject any submitted filing that does not comply with the rules of the Supreme Court at the time the case is being filed.

On the 3rd day of September 2009, the petitioner filed this law suit against the Housing Authority of Columbus, Georgia, the City of Columbus, Georgia and the State of Georgia under the 4th, 5th and 14th Amendment Rights of the United States Constitution. The above federal courts dismissed the petitioner's claim for an alleged lack of subject matter jurisdiction under the Rooker-Feldman Doctrine to consider the petitioner's claim.

The Court of Appeals of Georgia stated the following,

> If however, the HACG's was entitled to summary judgment on Talley's claim concerning the HACG's alleged abandonment of the public use and sale of the property to a private citizen for a substantial profit in 1999, it must be on some other ground; that issue could not have been adjudicated, either in the initial condemnation proceeding in 1994 or in the motion to set aside in 1997. And the record shows that although that issue was raised by Talley in federal court, his federal suit was ultimately dismissed on jurisdictional grounds. Therefore, the HACG was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel.

QUESTIONS PRESENTED FOR REVIEW

1. When there is a compelling reason for granting a petition, why would the Supreme Court of the United States not grant the petitioner's petition? The undisputed facts in this case have established that the State Court of Muscogee County State of Georgia and the United States District Court for the Middle District of Georgia Columbus & Macon Division, both dismissed the petitioner's claim and granted the respondent's motion for summary judgment for an alleged lack of subject matter jurisdiction. The United States Court of Appeals for the Eleventh Circuit concluded that the district court committed no reversible error in concluding

that it lacked subject matter jurisdiction to consider the petitioner's claim. The State Court of Appeals of Georgia has entered a decision in conflict with the decision of the United States District Court for the Middle District of Georgia Columbus Division and the United States Court of Appeals for the Eleventh Circuit. On the same important issue, the lack of subject matter jurisdiction to consider the petitioner's claim, the Court of Appeals of Georgia concluded that the respondent was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel.

The fact is the federal court dismissed the petitioner's claim on an alleged lack of subject matter jurisdiction to consider the petitioner's claim. In fact the federal court had subject matter jurisdiction to consider the petitioner's claim which means that justice was not served. This case should have continued in federal court. At a very minimum, the petitioner's case should be heard and evaluated in a court of law.

However, the State Court of Appeals of Georgia concluded that the respondent was entitled to summary judgment on some other grounds. The Court of Appeals of Georgia concluded that the respondent was entitled to summary judgment on the petitioner's alleged claim by the Court of Appeals of Georgia that the respondent abandoned any public use of the property and sold it to another private citizen for private use. The record shows that there was no claim filed by the petitioner that the respondent abandoned any public use of the subject property and sold it to another citizen for private use. The record shows that the respondent never used the subject property for public use of any kind. Therefore, there was no existing use for the respondent to abandon. If a summary judgment cannot be upheld for the above reasons given by the trial court, how can summary judgment be upheld by the State Court of Appeals of Georgia on a claim that was not filed in the trial court? This is exactly what the Court of Appeals of Georgia has done.

2. Why would the State Court of Appeals of Georgia conclude that the respondent was entitled to summary judgment on an alleged

claim by the State Court of Appeals? It is alleged that the petitioner filed a claim in court complaining that the respondent abandoned any public use of the property and sold it to another private citizen for his own private use. The record shows that there was no claim filed in court by the petitioner that the respondent abandoned any public use of the subject property and sold it to another private citizen for private uses.

3. Why would the Supreme Court of Georgia accept the petitioner's petition for Writ of Certiorari and notify the petitioner in writing that his case had been placed on the docket? The Supreme Court of Georgia accepted briefs from the petitioner and the respondent. The Supreme Court of Georgia accepted $80.00 from the petitioner for filing his case. The Supreme Court held the case for 121 days and dismissed the petitioner's case for untimely filing even though the case was filed by the Supreme Court of Georgia itself.

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Opinions and Orders Below

On October 10, 2004, Judge Clay D. Land of the United States District Court for the Middle District of Georgia Columbus Division granted summary judgment in favor of respondent. The court's opinion and order can be found in the appendix.

On September 23, 2005, a panel of the United States Courts of Appeals ruled that the district court committed no reversible error in concluding that it lacked subject matter jurisdiction. The panel stated that they addressed only the jurisdictional basis for the district court's decision. The court order incorporating this decision can be found in the appendix.

In September 2005, the judges of the United States Court of Appeals for the Eleventh Circuit denied petitioner's request for a rehearing of decision, and this order can be found in the appendix.

On April 5, 2006, the Court of Appeals of Georgia ruled that the respondent, the Housing Authority was not entitled to summary judgment on the claim of res judicata or collateral estoppel in 2003, but the respondent was entitled to summary judgment on other grounds. The court's opinion and orders can be found in the appendix.

On April 28, 2006, the petitioner filed an application for certiorari with the Supreme Court of Georgia. The clerk's office for the Supreme Court of Georgia docketed the petitioner's case and assigned the case number, A06A0393. The petition for certiorari was dismissed for untimely filing by the Supreme Court of Georgia on October 2, 2006. On October 30, 2006, the Supreme Court of Georgia denied the petitioner's Motion for Reconsideration, and on December 15, 2006, the Supreme Court of Georgia ordered that the petitioner's Second Motion for Reconsideration was disallowed filing. The petitioner's notice of filing petition of certiorari, the clerk's office notice of docketing date and the court's orders can be found in the appendix.

On December 7, 2009, Judge Ashley Royal of the United States District Court for the Middle District of Georgia Macon Division dismissed the petitioner's case for an alleged lack of subject matter jurisdiction to consider the case under the Rooker-Feldman doctrine. The court's opinion and order can be found in the appendix.

On November 8, 2010, a panel of the United States Court of Appeals for the Eleventh Circuit ruled that the United States District Court for the Middle District of Georgia Macon Division committed no reversible error in concluding that it lacked subject matter jurisdiction to consider the petitioner's case. The court's opinion and court order can be found in the appendix.

JURISDICTION

The Supreme Court of the United States clearly has subject matter jurisdiction in the petitioner's case. A case in which the United States District Court for the Middle District of Georgia Columbus Division dismissed the petitioner's claim and granted the respondent's summary judgment for an alleged lack of subject matter jurisdiction to consider the petitioner's case. The United States Court of Appeals for the Eleventh Circuit concluded that the district court committed no reversible error in concluding that it lacked subject matter jurisdiction to consider the petitioner's claim. The State Court of Appeals of Georgia concluded that the respondent was not entitled to summary judgment on that claim on the grounds of res judicata or collateral estoppel. The United States Court of Appeals has entered a decision in conflict with another state court on the same important matter, the lack of subject matter jurisdiction. This is a case that should be settled by the Supreme Court of the United States.

STATEMENT OF THE CASE

At issue in this case is whether the case filed by the petitioner in the United States District Court for the Middle District of Georgia Columbus & Macon Division and the United States Court of Appeals for the Eleventh Circuit should have dismissed the petitioner's case and granted the respondent's summary judgment concluding that they lacked subject matter jurisdiction to consider the petitioner's claim. The undisputed facts in this case establish the State Court of Appeals of Georgia has entered a decision in conflict with the decision of the United States Court of Appeals for the Eleventh Circuit and the United States District Court for the Middle District of Georgia Columbus Division on the same important issue, the matter of subject matter jurisdiction. The Court of Appeals of Georgia concluded that the federal court had subject matter jurisdiction to consider the petitioner's claim, and the respondent

was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel.

Due to the ruling by the Court of Appeals of Georgia, it would seem reasonable that the court should have granted the petitioner's claim and denied the respondent's claim for summary judgment. The Court of Appeals of Georgia granted the respondent's summary judgment and denied the petitioner's claim. On the basis of the Court of Appeals of Georgia's alleged claim that the petitioner argued that the respondent abandoned any public use of the subject property and sold it to another private citizen for private use. The record shows that there is no such filing in any court by the petitioner. The record shows that the respondent never used the subject property for any kind of public use. There was nothing for the respondent to abandon. It has not been alleged by the respondent that he used the subject property for public use of any kind before selling the property to a private citizen for a profit of $42,800.00.

REASONS FOR GRANTING WRIT OF CERTIORARI

Review in this case is warranted and necessary due to the undisputed facts in this case. The United States Court of Appeals for the Eleventh Circuit has entered a decision in conflict with the decision of the Court of Appeals of Georgia on the same important issue, the subject matter jurisdiction. The courts have not been unanimous in their ruling regarding a lack or existence of subject matter jurisdiction. Due to the alleged lack of subject matter jurisdiction to consider the petitioner's claim, the petitioner's claim was denied, and the respondent's claim for summary judgment was granted. Unless this case is reviewed by the Supreme Court of the United States, this case will never be heard and evaluated in a court of law. Unless the Supreme Court of the United States intervenes, this case will end, and justice will not have been served. This is a question of federal law and should be settled by the Supreme Court of the United States.

A review in this case is also warranted to preserve the primacy of this court's previous decision in Kelo v. City of New London. The lower court and the respondent have compared this case to the New London Connecticut Case, and there is no basis for such a comparison. The petitioner is requesting that the Supreme Court of the United States review the petitioner's case and determine if the recent decision of this court in Kelo v. City of New London authorized the actions taken by the respondent in this case. The respondent took the petitioner's private property for an alleged urban redevelopment project for public use. The respondent seized the property for more than 4 years. The respondent refused to return the property back to the petitioner with full knowledge that the petitioner never accepted any money from the court register in order to not jeopardize his campaign to retrieve his property. The subject property was sold by the respondent to another private citizen for his own private use. The selling of this private property did not create one job for the City of Columbus of the State of Georgia or any huge tax revenue. However, it did lead to the taking of the petitioner's private property, and the sale of the subject property for a profit of $42,800.00. Such an acquisition is not permissible under the Fifth Amendment of the United States Constitution. See OCGA§ 36-61-1 et seq. U.S. (125SC2355, 161 SE 2d 439) 2005.

CONCLUSION

The petitioner respectfully requests that this court grant the writ of certiorari. The petitioner hopes that his request is granted not only because it is the right thing to do, but because this court wants to take a stand against the injustices suffered by the petitioner at the hands of the respondent. The respondent seized the petitioner's private property for public use via the improper use of Georgia State Law authorizing urban renewal projects. The subject property was seized for more than 4 years. The respondent refused to return the subject property to the petitioner. The subject property was sold to another private citizen for a substantial amount of money.

Unless the Supreme Court of the United States grants the petitioner's petition for writ of certiorari, the respondent will never be held accountable in a court of law. His actions in this case have violated Georgia State Law, authorizing urban renewal projects, as well as the petitioner's constitutional rights. Even though the State Court of Appeals has concluded that the respondent was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel, the fact is the United States District Court for the Middle District of Georgia Columbus & Macon Division and the United States Court of Appeals for the Eleventh Circuit have dismissed the petitioner's claim and granted summary judgment to the respondent on grounds of an alleged lack of subject matter jurisdiction to consider the petitioner's claim.

It is important for the United States Supreme Court accepts the petitioner's case which also affects the public, especially law students. It is an undisputed fact that Talley v. Housing Authority, 630 S.E. 2d. 550 Ga. Ct. APP, should not have been published and placed in statute books as is. This statute should be amended to state the truth which is that such disposition of the above condemned property was not authorized under Georgia State Law. The defendants were not entitled to summary judgment on Talley's claims. The Georgia Supreme Court declared that the selling of public property, acquired by mean of eminent domain, to private parties is appropriate only after the subject property has fulfilled its public use. See Housing Authority of City of Atlanta, Ga. V. Johnson, S.E. 2d 891.

It appears that the statute, Talley V. Housing Authority, 630 S.E. 2d 500 (Ga. Ct, APP) was created and used by our legal system to dismiss the petitioner's claim. The federal courts have dismissed the petitioner's claims based entirely on an alleged lack of subject matter jurisdiction to consider the petitioner's case under the Rooker-Feldman doctrine. Since all four criteria of the Rooker-Feldman doctrine are not satisfied, the Court does not lack subject matter jurisdiction to consider the petitioner's claim. First, the party in federal court is not the same as the party in the state condemnation action. Second, there was never an opportunity for the party seeking federal relief in federal court to have raised the federal claim in the

state court proceeding. See Amos v. Glynn County Bd. of Tax Assessors, 347 F.3d 1249, 1265 n.11 (11th Cir. 2003).

When it was made crystal clear by the Court of Appeals of Georgia that the HACG was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel, why did the above courts ignore the petitioner's claim and right to have his claim considered in federal court which is what this case was about? Instead the courts dismissed the petitioner's case and granted the respondents' summary judgment on some other grounds. The case filed in federal court by the petitioner was not about granting the respondent's summary judgment on some other grounds.

However, on December 7, 2009, the United States District Court for the Middle District of Georgia Macon Division dismissed the petitioner's case based entirely on the alleged lack of subject matter jurisdiction to consider the petitioner's claim filed in 2004. On November 8, 2010, the United States Court of Appeals for the Eleventh Circuit dismissed the petitioner's claim based entirely on the alleged lack of subject matter jurisdiction to consider the petitioner's claim. The record shows that both courts had subject matter jurisdiction to consider the petitioner's claim under the Rooker-Feldman doctrine.

The United States District Court for the Middle District of Georgia Macon and Columbus Division and the United States Court of Appeals for the Eleventh Circuit appears to be stating that the Kelo v. City of New London, U. S. 1255C 2655, 162 L.E 2d 439 ruling by the United States Supreme Court authorizes the actions taken by the respondent against the petitioner. Even if the United States Supreme Court ruling was retroactive and could go back to 1994, 1997 and 1999, it could not resolve the respondents' self-created dilemma. The respondent would still have to address the O.C.G.A. provision 22-1-2 that states eminent domain property shall not be converted to any use other than public use for 20 years from the initial condemnation. It is quite clear that the actions taken by the respondents in the above-styled case involve fraud and theft by taking. It appears that the above federal courts have dismissed the petitioner's case based on the ruling of previous courts instead of the rule of law.

Respectfully submitted,

Logie W. Talley

Logie W. Talley

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[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10431

Non-Argument Calendar

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
NOVEMBER 8, 2010
JOHN LEY
CLERK

D.C. Docket No. 5:09-cv-00308-CAR

LOGIE W. TALLEY,

Plaintiff – Appellant,

Versus

COLUMBUS, GEORGIA HOUSING AUTHORITY,

CITY OF COLUMBUS, GEORGIA,

STATE OF GEORGIA,

Defendants – Appellees.

Appeal from the United States District Court

for the Middle District of Georgia

(November 8, 2010)

Before EDMONDSON, BLACK and PRYOR, Circuit Judges.

APPENDIX A

PER CURIAM:

Logie W. Talley, proceeding pro se, appeals the dismissal of his civil right complaint, 42 U.S.C. § 1983, for lack of subject-matter jurisdiction. No reversible error has been shown; we affirm.

Talley filed his section 1983 complaint against the Housing Authority of Columbus, Georgia, and the City of Columbus ("Defendants").[1] He alleged that, in 1994, Defendants condemned and seized his property pursuant to state eminent domain laws for an alleged urban redevelopment project. But the property never was used for a public purpose; and Defendants, in 1999, sold the property to a private citizen. Talley contended that Defendants' acts violated his constitutional rights and Georgia law. He sought to have his property returned and to be awarded money damages. The district court granted Defendants' motion to dismiss and dismissed Talley's complaint pursuant to the Rooker-Feldman doctrine.[2]

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[1] Talley also sued the State of Georgia. But on appeal, Talley does not challenge the district court's dismissal of the State or name the state as a Defendant in his brief; so he has abandoned any challenge to that party. See Timson v. Sampson, 518 F.3d 870, 874 (11th Cir. 2008).

[2] D.C. Court of Appeals v. Feldman, 103 S.Ct. 1303 (1983); Rooker v. Fid. Trust Co., 44 S.Ct. 149 (1923).

On appeal, Talley repeats his substantive allegations against the Defendants and argues that the Rooker-Feldman doctrine is inapplicable to his case because he had no opportunity to raise his claims in the initial condemnation proceedings in 1994. We review de novo a district court's determination that it lacked subject-matter jurisdiction over a plaintiff's claim in the light of the Rooker-Feldman doctrine.[3] Nicholson v. Shafe, 558 F.3d 1266, 1270 (11th Cir. 2009).

The Rooker-Feldman doctrine precludes federal courts – other than the United States Supreme Court – from reviewing final judgments of state courts. Casale v. Tillman, 558 F.3d 1258, 1260 (11th Cir. 2009) (explaining that the doctrine applies to federal claims previously raised and ruled on by a state court and to those claims "inextricably intertwined" with a state court's judgment). Rooker-Feldman bars lower federal-court jurisdiction in "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced

[3] In addition, we construe liberally pro se pleadings. Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998).

and inviting district court review and rejection of those judgments." Id. at 1261 (citation omitted).

Here, Talley complained of injuries caused by the 1994 state court condemnation judgment; this judgment concluded that the taking was constitutional. Here, Talley also complained that Defendants abandoned any public use of the property and sold it to a private citizen. Talley raised this claim in a separate state proceeding in 2003. The state appeals court concluded that such disposition of the condemned property was authorized under Georgia law and that Defendants were entitled to summary judgment on Talley's claim. Talley v. Housing Auth., 630 S.E.2d 550 (Ga. Ct. App. 2006).

We conclude, as did the district court, that the Rooker-Feldman criteria are satisfied. Talley was a state-court loser in both the 1994 state condemnation proceedings and the 2003 state court proceeding. The state court judgments formed the basis of or were intertwined with the injuries complained of in Talley's instant complaint: that the taking of his property and its later sale to a private citizen without the property ever having been used for a

public purpose violated his federal constitutional rights and Georgia law. The state court proceedings had ended before Talley instituted the present federal lawsuit in the district court. And Talley, in effect, wanted the district court to review and reject the state court judgments about his condemnation proceedings. See Casale, 558 F.3d at 1261.

Talley argues that his claim about Defendants' abandonment of a public use and later sale of the property to a private citizen could not have been raised in his initial condemnation proceedings. Even if this argument is true, Talley later raised this challenge in state court and attached evidence of this challenge to his pleadings in the instant case. Talley also argues that his prior federal case about his condemnation proceedings – filed in 2004 – did not address his instant argument about the sale to a private citizen. But the prior federal court proceeding does not bear on whether the Rooker-Feldman doctrine, which is tied to state court proceedings, barred the instant lawsuit.[4]

[4] Although the district court was ruling on a motion to dismiss, the court properly examined extrinsic documents detailing Talley's previous state and federal court cases that related to the condemnation of his property: the cases were

Because we agree with the district court that the Rooker-Feldman doctrine barred Talley's present challenges, we need not address Talley's remaining arguments about the district court's alternative grounds for dismissal. See Casale, 558 F.3d at 1259 n.1.

AFFIRMED.

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central to Talley's instant federal claim. See SFM Holdings, Ltd. V. Banc of Am. Sec., LLC, 600 F.3d 1334, 1337 (11th Cir. 2010) (in ruling on a motion to dismiss, the court may consider extrinsic evidence if it is central to plaintiff's claim and its authenticity is not challenged).

**IN THE UNITED STATES DISTRICT
FOR THE MIDDLE DISTRICT GEORGIA
MACON DIVISION**

LOGIE W. TALLEY,	:	
Plaintiff,	:	
	:	
	:	**5:09-cv-308 (CAR)**
v.	:	
	:	
HOUSING AUTHORITY OF COLUMBS, GEORGIA; THE CITY OF COLUMBUS, GEORGIA; THE STATE OF GEORGIA	:	
	:	
Defendants.	:	
	:	

ORDER ON DEFENDANTS' MOTION TO DISMISS

Before the Court is the Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b) [Doc. 3] of Defendants Columbus Consolidated Government[1] ("Columbus") and the Housing Authority of Columbus, Georgia ("Housing Authority"). Defendants move for dismissal on the ground that this Court lacks subject matter

[1] Defendant Columbus Consolidated Government was erroneously sued as the City of Columbus, Georgia.

jurisdiction because the issues raised in Plaintiff Logie W. Talley's complaint have already been litigated and finally determined. Defendants also move for dismissal pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. The Court finds that the issues raised in Plaintiff's Complaint [Doc. 1] have previously been litigated and finally determined in Housing Authority of Columbus, Georgia, No. 5494-cv-1974-2 (Sup. Ct. Muscogee County) (1994) and Talley v. Housing Authority of Columbus, Georgia, No. 4:04-cv-61-1 (M.D. Ga.) (2004). Thus, the Motion to Dismiss is **GRANTED** for Defendants Columbus and the Housing Authority.

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FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff alleges claims against Defendants for violations of his Fourth, Fifth and Fourteenth Amendment rights based on the condemnation of his property that occurred in 1994. Specifically, Plaintiff claim the condemnation was unlawful because the property was not subsequently used for a public purpose.

A. The State Condemnation Action

On March 26,1994, the Housing Authority filed a petition for condemnation of Plaintiff's property located at 411 Twenty First Street ,Columbus, Georgia, in the Muscogee County Superior Court. Plaintiff was properly served with notice of the action, and the superior court issued a judgment approving the condemnation on August 1, 1994.[2] On August 12, 1994, Plaintiff filed a request for appeal, which was ultimately dismissed as being untimely. On June 20,199, Plaintiff filed a Motion to Set Aside the August 1, 1994 judgment, but the motion was denied on August 7, 1997.

B. The Federal Court Action

On May 21, 2004, Plaintiff filed a complaint against the Housing Authority in the United States District Court for the Middle District of Georgia. The complaint alleged that his property was unlawfully taken and resold to a private citizen in violation of his Fourth, Fifth, and Fourteenth Amendment rights, as well as the Georgia Constitution. Additionally Plaintiff alleged there was no public necessity to justify the taking.

On June 10, 2004, the Housing Authority filed a motion for

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[2] Housing Auth. of Columbus, Ga., No. 5494-cv-1974-2 (Sup. Ct. Muscogee County) (1994).

summary judgment, which was granted by the court.[3] Specifically, the court held that summary judgment was warranted because each of Plaintiff's claims were barred based on the Rooker-Feldman doctrine and res judicata. Plaintiff appealed the court's granting of Defendant's motion for summary judgment to the Eleventh Circuit, and the Eleventh Circuit affirmed the district court's order. Thereafter, Plaintiff filed a petition for certiorari to the United States Supreme Court, which was ultimately denied.

On September 3, 2009, Plaintiff filed the present lawsuit against Defendants for violating his constitutional rights and taking his property without public necessity. Defendants move to dismiss Plaintiff's complaint.

DISCUSSION

A. Motion to Dismiss Standard

In considering dismissal of a complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure, a district court must accept the allegations set forth in the complaint as true and construe facts in the light most favorable to the plaintiff. See Kirby v. Siegelman, 195

[3] Talley v. Housing Auth. of Columbus, Ga., No. 4:04-cv-61-1 (M.D. Ga.) (2004).

F.3d 1285, 1289 (11th Cir. 1999) (per curiam). However, the court is not required to accept the plaintiff's conclusions of law. See Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). "The threshold sufficiency that a complaint must meet to survive a motion to dismiss is exceedingly low". Ancata v. Prison Health Servs., Inc., 769 F.2d 700, 703 (11th Cir. 1985). "While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations . . . a plaintiff's obligation to provide the grounds of his entitle[ment] to relief requires more than labels and conclusions." Ashcroft, 129 S. Ct. at 555. "Factual allegations must be enough to raise a right to relief above the speculative level." Id.

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On motion to dismiss, the court's function is not to assess the veracity or weight of the evidence; instead, the court must merely determine whether the complaint is legally sufficient. See Sherman v. Helms, 80 F. Supp. 2d 1365, 1368 (M.D.Ga. 2000). Accordingly, the issue is whether the plaintiff is entitled to present evidence in support of his claims, not whether those claims will ultimately succeed. See Little v. City of N. Miami, 805 F.2d 962, 965 (11th Cir. 1986). Because this standard imposes such a heavy burden on the

defendant, Rule 12(b)(6) motions are rarely granted. See Washington v. Dep't of Children and Families, 256F. App'x 326, 327 (11th Cir. 2007); Beck v. Deloitte & Touche, 144F.3d 732, 735-36 (11th. Cir. 1998). Furthermore, the Court affords a plaintiff who is proceeding *pro se* as is Plaintiff in this case, wide latitude when construing his pleadings and papers. See SEC v. Elliott, 953 F.2d 1560, 1582 (11th Cir. 1992); see also Haines v. Kerner, 404 U.S. 519, 520 (1972) (holding *pro se* complaint "to less stringent standards than formal pleadings drafted by lawyers"). Nevertheless, the court is not required to exempt a *pro se* litigant from complying with the relevant rules of procedure and substantive law. See Wayne v. Jarvis, 197 F.3d 1098, 1104 (11th Cir.1999); Clark v. Bibb County Bd. of Educ., 174F. Supp. 2d 1369, 1371 (M.D. Ga. 2001).

B. Rooker-Feldman Doctrine

Defendants contend that the Rooker-Feldman doctrine precludes this Court from reviewing the final judgment of the Superior Court of Muscogee County, Georgia, and therefore this Court lacks subject matter jurisdiction over this action. The Court agrees.

The Rooker-Feldman doctrine precludes federal courts from reviewing final judgment of state courts. See Rooker v. Fidelity Trust Co., 263 U.S 413, 415 (1923); D.C. Courts of Appeals v. Feldman, 460 U.S. 462, 476-82 (1983). The doctrine applies to those claims actually raised in the state court, as well as to those claims that were not raised but were "inextricably intertwined" with

the state court's judgment. Redford v. Gwinnett County Judicial Circuit, No. 09-10807, 2009 WL 3059056, at * 2 (11th Cir. Sept. 25, 2009). When four criteria are satisfied, the Rooker-Feldman doctrine bars lower federal court jurisdiction: (1) the party in federal court is the same as the party in state court; (2) the prior state court ruling was a final judgment on the merits; (3) a reasonable opportunity existed for the party seeking relief in federal court to have raised the federal claim in the state court proceeding; and (4) the issue advanced in federal court was either adjudicated by the state court or was inextricably intertwined with the state court's judgment. Amos v Glynn County Bd. of Tax Assessors, 347 F.3d 1249, 1265 n.11 (11th Cir. 2003).

In this case, the Rooker-Feldman criteria are satisfied. Plaintiff is the same party as in the state court condemnation action. The state court ruling was a final judgment on the merits because the property was condemned, and the Housing Authority was granted fee simple title to the property. Plaintiff claimed a violation of his constitutional rights and raised the issue of public necessity in the state court condemnation action . Plaintiff had a full opportunity to litigate all his claims regarding the unlawful taking of his property. The issues before this Court were therefore adjudicated by the state court condemnation action. Thus, this Court is precluded under the Rooker-Feldman doctrine from reviewing the final judgment of the Superior Court of Muscogee County, Georgia, and lack jurisdiction over this action.

C. Doctrine of Res Judicata and Collateral Estoppel

Even if the Court had subject matter jurisdiction over the case, Plaintiff would still be precluded from litigating the same issues again under the doctrines of res judicata and collateral estoppel. The Court must apply Georgia law in analyzing these doctrines. See Matsushita Elec. Indus. Co.Ltd. v. Epstein, 516 U.S. 367, 375 (1996); see also 28 U.S.C. §1738.

1. Doctrine of Res Judicata

Case 5:09-cv.-00308-CAR Document 17 Filed 12/ 07/09 Page 6 of 9

"The doctrine of res judicata prevents the relitigation of all claims which have already been adjudicated, or which could have been adjudicated" in a previous suit. Buford-Clairmont Co. Ltd. v. Cato Corp.,241 Ga. App. 50, 54 (Ga.Ct. App. 1999) (quotations omitted). Under Georgia law, three elements must be satisfied to bar a subsequent suit under res judicata : (1) the same cause of action must be involved in both suits; (2) the parties or their privies must be the same in both suits; and (3) there must be a final judgment on the merits rendered by a court of competent jurisdiction. Id. (quotations omitted); see also O.C.G.A. § 9-12-40 (1933).

Here ,Plaintiff's claims against the Housing Authority are barred by res judicata. Plaintiff asserts the same cause of action that was raised in both the state court condemnation action and in the federal court action – violation of his constitutional rights - and the action involves the same parties - Plaintiff and the Housing Authority. The state court ruling was final judgment on the merits because the property was condemned, and the Housing Authority was granted fee simple title to the property. Additionally, Plaintiff

had a full opportunity to litigate each and every claim existing between the parties. Because the elements of the doctrine of res judicata are satisfied, Plaintiff is precluded from relitigating the same issues against the Housing Authority.

2. Doctrine of Collateral Estoppel

The doctrine of "collateral estoppel precludes the re-adjudication of an issue that has previously been litigated and adjudicated on the merits in another action between the same parties or their privies." City of Marietta v. CXA Tranp., Inc., 196 F.3d 1300, 1305 (11th Cir. 1999) (quotations omitted). Unlike res-judicata, collateral estoppel is not limited to parties and their privies; rather, a "defendant who was not a party to the original action may invoke collateral estoppel against the plaintiff." Miller v. King, No. CV698-109, 2009 WL 3805568, at * 5 (S.D. Ga.Nov. 10, 2009) (quotations omitted). To assert this doctrine, a party must establish four elements:

(1) the issue at stake must be identical to the one involved in the prior litigation; (2) the issue must have been actually litigated in the prior suit; (3) the determination of the issue in the prior

suit must have been an essential part of the judgment in the earlier proceeding; and (4) "the party against whom the doctrine is asserted must have a full opportunity to litigate the issue." Macon Water Auth. v. City of Forsyth, 262 Ga. App. 224, 227 (Ga. App. 2003).

In this case, Plaintiff's claims against Columbus are barred by collateral estoppel. Plaintiff's constitutional violations claim was the crux of the state court condemnation action and was actually litigated. Plaintiff had a full opportunity to litigate any issues relating to the legality of the taking of his property during the state court action and his subsequent Motion to Set Aside. Furthermore, Plaintiff's claim regarding his property being sold in 1999 to a private individual was reviewed and a central part of the previous federal court's ruling granting the Housing Authority summary judgment. Because the elements of the doctrine of collateral estoppel are satisfied, Plaintiff is precluded from relitigating the same issues against Columbus.

D. Federal Rule of Civil Procedure 12(b)(6)

Even if the court was not precluded from determining Plaintiff's claims, his complaint must be dismissed for failure to state

a claim upon which can be granted because Plaintiff's claims are barred by the statute of limitations.

A complaint may be dismissed on statute of limitations grounds under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted only where it is "apparent from the face of the complaint that the claim is time-barred." Robinson v. Schafer, 305 F. App'x 629,629 (11th Cir. 2008) (quotations omitted). Georgia's two–year statute of limitations period applicable to personal injury claims is applied to actions brought under 42 U.S.C. § 1983. Wilson v. Garcia, 471 U.S. 261, 276 (1985), superseded by statute on other grounds, as stated in Jones v. R.R.

Donnelley & Sons Co., 541 U.S. 369 377-78 (2004); See Kelly v. Serna, 87 F. 3d 1235, 1238 (11th Cir.1996). The statute of limitations begins to run when the events giving rise to the cause of action are "apparent or should be apparent to a person with a reasonable prudent regard for his rights." Mullinax v. McElhenney, 817 F.2d 711, 716 (11th Cir.1987) (quotations omitted).

In this case, Plaintiff's statute of limitations period has expired. Plaintiff alleges violations on the face of his complaint that

occurred in 1994, when the Housing Authority condemned his property, and in 1999, when the property was sold to a private person. Plaintiff's claims were apparently or should have been apparent on those dates. Therefore, Plaintiff's claims are untimely because both dates are beyond the two–year statute of limitations.

Moreover, equitable tolling is not appropriate. Under the doctrine of equitable tolling, a plaintiff may sue after the expired statutory period if he was "prevented from doing so due to inequitable circumstances." Ellis v. Gen. Motors Acceptance Corp., 160 F.3d 703, 706 (11th Cir. 1998). Equitable tolling is appropriate when a plaintiff makes untimely filing "because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence". Sandvik v. United States, 177 F.3d 1269, 1271 (11th Cir. 1999). "Pro se status, ignorance of the law, and administrative processes that 'are to slow or involve too much delay' do not warrant equitable tolling." Robinson v. Schafer, 305 F. App'x 629, 630 (11th Cir. 2008) (quoting Wakefield v. R.R. Ret. Bd., 131 F.3d 967, 970 (11th Cir. 1997)). "Furthermore, the liberal construction given to pro se pleadings 'does not mean liberal deadlines.'" Id. (quoting Wayne

v. Jarvis, 197 F.3d 1098, 1104 (11th Cir. 1999)). Extraordinary circumstances do not exist in Plaintiff's case to warrant equitable tolling. Thus, Plaintiff's complaint must be dismissed under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which can be granted.

CONCLUSION

For the reasons stated above, the Court **HEREBY GRANTS** the Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b) [Doc. 3] of Defendants Columbus and the Housing Authority.

SO ORDERED, this 7th day of December, 2009.

S/C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

APG/ssh/chw

UNITED STATES COURT OF APPEALS
For the Eleventh Circuit

No. 10-10431

District Court Docked No.
5:09-cv -00308-CAR

FILED
U.S. COURT OF
APPEALS
ELEVENTH CIRCUIT
Nov 8, 2010
JOHN LEY
CLERK

LOGIE W. TALLEY,

Plaintiff-Appellant,

versus

COLUMBUS, GEORGIA HOUSING AUTHORITY,
CITY OF COLUMBUS, GEORGIA
STATE OF GEORGIA

Defendant-Appellees.

Appeal from the United States District Court for the
Middle District of Georgia

ISSUED AS MANDATE
JAN 24 2011
U.S. COURT OF APPEALS
ATLANTA,GA

JUDGMENT

It is hereby ordered, adjudged and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: November 08, 2010
For the Court: John Ley, Clerk of Court
By: Jeff R. Patch

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
JAN 14 2011
JOHN LEY
CLERK

NO. 10-10431-HH

LOGIE W. TALLEY

Versus

Plaintiff-Appellant,

COLUMBUS, GEORGIA HOUSING AUTHORITY,

CITY OF COLUMBUS, GEORGIA

STATE OF GEORGIA

Defendant-Appellees.

On Appeal from the United States District Court for the
Middle District of Georgia

ON PETITION FOR REHARING AND PETITION FOR REHEARING EN BANC

Before: EDMONDSON, BLACK and PRYOR, Circuit Judge.

PER CURIAM:

The petition for Rehearing is DENIED and no member of this panel nor others Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule35, Federal Rules Appellate Procedure; Eleventh Circuit Rule 35-5), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

"s/JL Edmondson"
UNITED STATES CIRCUIT JUDGE

ORD-42

(6/95)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LOGIE W. TALLEY, *

Plainitiff *

Vs. *

THE HOUSING AUTHORITY *
OF COLUMBUS, GEORGIA, *

Defendant *

Filed
U.S. District Court
Middle Georgia
04 AUG 10 AM 8:21

Case Number 4:04-CV-61-1

Civil Order Book 30, Page 2804

JUDGMENT

Pursuant to this Court's Order dated August 9, 2004, and for the reasons stated therein, JUDGMENT is hereby rendered in favor of Defendant. Plaintiff shall recover nothing of Defendant. Defendant shall also recover its costs of this action.

This 10th day of August, 2004.

Gregory J. Leonard, Clerk
"s/Gregory J. Leonard"

Timothy L. Frost, Deputy Clerk

APPENDIX D

United States Court of Appeals
For the Eleventh Circuit

No. 04-14703

District Court Docket No.
04-00061-CV-1-CDL-4

LOGIE W. TALLEY,

Plaintiff-Appellant,

Versus

THE HOUSING AUTHORITY
OF COLUMBUS, GEORGIA,

Defendant-Appellee.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
May 16, 2005, 3:20 PM
THOMAS K. KAHN
CLERK

Appeal from the United States District Court
For the Middle District of Georgia

JUDGMENT

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: May 16, 2005
For the Court: Thomas K. Kahn, Clerk
By: Gilman, Nancy

APPENDIX E

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 04-14703-FF

LOGIE W. TALLEY,

Plaintiff-Appellant.

Versus

THE HOUSING AUTHORITY OF COLUMBUS, GEORGIA,

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
SEP 15, 2005
THOMAS K KAHN
CLERK

Defendant-Appellee.

On Appeal from the United States District Court for the Middle District of Georgia

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BEFORE: EDMONDSON, Chief Judge, BIRCH and BARKETT, Circuit Judges.

PER CURIAM:

The petition (s) for rehearing filed by the Appellant, Logie W. Talley, is DENIED.

ENTERED FOR THE COURT:

"s/J.L. Edmondson"

Chief Justice

APPENDIX F

FOURTH DIVISION
RUFFIN, C. J.
SMITH, P.J., PHIPPS, J.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
(Court of Appeals Rules 4 and 37, September 5, 2002)
http: //www.gaappeals.us/rules/

April 5, 2006

In the Court of Appeals of Georgia

A06A0393. TALLEY v. THE HOUSING AUTHORITY OF COLUMBUS, GEORGIA

PHIPPS, Judge.

In this suit by Logie Talley against the Housing Authority of Columbus, Georgia (HACG), the State Court of Muscogee County granted the HACG's motion for summary judgment. Talley appeals, raising issues concerning Georgian's Urban Redevelopment Law (URL)[1] and the recent decision of the Supreme Court of the United States in *Kelo v. City of New London*.[2] For reasons which follow, we affirm.

APPENDIX G

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[1] OCGA § 36-61-1 et seq.
[2] __U.S. ___ (125 SC 2655, 161 LE2d 439) (2005).

In 1994, the HACG instituted an in rem condemnation proceeding against a subdivision lot and its owners, Talley and others. In that proceeding, the Superior Court of Muscogee County entered judgment conveying "full, complete and unencumbered fee simple title" to the property to the HACG upon payment into the court registry of $17,500 awarded by the special master to the property owners.

In 2003, Talley instituted this pro se action claiming that the HACG unlawfully took the property in 1994 and demanding its return. Talley also complains that in 1999 the HACG abandoned any public use of the property and sold it to a private citizen for $42,800. The HACG moved for summary judgment on grounds that the question of legality of the taking of Talley's property for a valid public purpose was decided adversely to him in tih initial condemnation action, in a motion to set aside the condemnation judgment filed by Talley and denied by the Superior Court of Muscogee County in 1997, and in a 42 USC § 1983 action filed by Talley against the HACG in federal district court in 2004. The state court granted the motion without explanation.

1. The HACG is certainly correct in its argument that Talley's challenge to the legality of the 1994 taking is barred by principles of res judicata and collateral estoppel.[3]

2. If, however, the HACG was entitled to summary judgment on Talley's claim concerning the HACG's alleged abandonment of the public use and sale of the property to a private citizen for a substantial profit in 1999,[4] it must be on some other ground; that issue could not have been adjudicated, either in the initial condemnation proceeding in 1994 or in the motion to set aside in 1997.[5] And the record shows that although that issue was raised by Talley in federal court, his federal suit was ultimately dismissed on jurisdictional grounds. Therefore, the HACG was not entitled to summary judgment on that claim on grounds of res judicata or collateral estoppel. We conclude, however, that the HACG was indeed entitled to summary judgment on the claim on other grounds. Where a summary judgment cannot be upheld for the reasons given by the trial court, we must decide whether the summary judgment

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[3] See generally *State v. Lejeune*, 277 Ga. 749, 756 (3) (594 SE2d 637) (2004).
[4] See Note: A Profit for the Taking: Sale of Condemned Property after Abandonment of the Proposed Public Use, 74 Wash. U.L.Q. 751 (1996).
[5] See *State v. Lejeune*, supra.

may be upheld on any other basis as a judgment that is right for any reason will be affirmed.[6]

The record shows that the condemnation proceeding was brought under the authority of Georgia's Urban Redevelopment Law (URL).[7] Enacted in 1955,[8] the URL authorizes Georgia municipalities and counties, either directly or through urban redevelopment agencies or housing authorities , to exercise the power of eminent domain for the acquisition and redevelopment of urban property which has been found to be a "slum area" as defined in the URL.[9] To effectuate redevelopment of condemned property, the URL authorizes a housing authority to sell, lease or otherwise transfer condemned property "for public use"; or for various specified private uses, i.e., "residential, recreational, commercial, industrial"; or for "other uses."[10]

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[6] *Precise v. City of Rossville*, 261 Fa. 210, 211 (3) (403 SE2d 47) (1991).
[7] OCGA § 36-61-1 et seq.
[8] Ga. L. 1955, pp. 354, 355, § 1.
[9] OCGA § § 36-61-1 through 36-61-17.
[10] OCGA § 36-61-10 (a); compare *Galloway v. Bd. Of Commissioners of Banks County*, 246 Ga. 472, 472 – 473 (271 SE2d 784) (1980) (implying that when condemnor abandons specific public use for which property was taken, it generally must devote the property to another "public" use).

The URL's precursor was the Redevelopment Law of 1946.[11] The 1946 law was found unconstitutional by the Supreme Court of Georgia in *Housing Authority of the City of Atlanta v. Johnson*,[12] on grounds that the power of eminent domain could not be used to acquire private property to sell to another private person for his own private use. Following the *Johnson* decision, however, the General Assembly adopted a resolution proposing that the Georgia Constitution be amended to authorize such use of the power of eminent domain.[13] The constitutional amendment was ratified by the voters, became part of the Georgia Constitution of 1945,[14] and has been carried forward into our 1976 and 1983 Constitutions.[15] In accordance with the constitutional amendment, the General Assembly enacted the URL in 1955 and, because of the constitutional amendment, our Supreme Court reluctantly sustained the law's constitutionality.[16]

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[11] Ga. L. 1946, pp. 157, 158, § 1.
[12] 209 Ga. 560 (74 SE2d 891) (1953).
[13] Ga. L. 1953, Nov.-Dec. Sess., p. 538.
[14] Art. XVI of the Ga. Const. of 1945.
[15] Art. IX, Sec. IV, Par. IV of the Ga. Const. of 1976; Art. IX, Sec. II, Paragraph VII (a) of the Ga. Const. of 1983; see *Nations v Downtown Development Auth. Or the City of Atlanta*, 255 Ga. 324, 329 (2) (d) (338 SE2d 240) (1986).
[16] *Bailey v. Housing Auth. Of City of Bainbridge*, Ga. 790 (107 SE2d 812) (1959); see also *Allen v. City Council of Augusta*, 215 Ga. 778 (113 SE2d 621) (1960).

Kelo v. City of New London[17] has ignited a national debate on the subject of government use of the power of eminent domain by taking private property from one person and selling it another such person or private enterprise for urban redevelopment. *Kelo* found such takings to be permissible under the Fifth Amendment of the United States Constitution and left it to the states to enact more restrictive condemnation laws if they so choose.

Georgia's nonrestrictive URL and its underlying constitutional authorization remain in place. Therefore, the HACG was entitled to summary judgment on Talley's complaint that it abandoned any "public use" of the property and sold it to a private citizen for " other uses," as such disposition of condemned property is authorized by the URL.[18]

Judgment affirmed. Ruffin, C.J., and Smith, P.J., concur.

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[17] Supra.

[18] Because the HACG was awarded indefeasible fee simple title to the property, it might also have sought dismissal of Talley's complaints concerning its post-condemnation activities based on lack of standing. See Sadtler v. City of Atlanta, 236 Ga. 396 (223 SE2d 819) (1976). In response, Talley might have argued that, as a citizen and taxpayer of the municipality, he has standing to challenge "ultra vires" actions of public officials. See Arneson v. Bd. Of Trustees of the Employees' Retirement Syst. Of Ga. , 227 Ga. 579, 580 (2) (361 SE2d 805) (1987); see also Galloway v. Bd. of Commissioners of Banks County, 246 GA. 472 (271 SE2d 784) (1980). In any event , the HACG did not challenge Talley's standing. We, therefore, do not decide the question.

SUPREME COURT OF GEORGIA
Case No. S06C1682

Atlanta December 15, 2006

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

LOGIE W. TALLEY v. HOUSING AUTHORITY OF COLUMBUS

It is ordered that the Second Motion for Reconsideration, in this case, received on November 8, is not allowed filed.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and seal of said court hereto affixed the day and year last above written.

"s/Lynn M. Strichcomb", Chief Deputy Clerk

APPENDIX H

SUPREME COURT OF GEORGIA

Case No. S06C1682

Atlanta, October 30, 2006

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LOGIE W. TALLEY v. HOUSING AUTHORITY OF COLUMBUS

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and seal of said court hereto affixed the day and year last above written.

Therese S. Barnes, Clerk

APPENDIX I

SUPREME COURT OF GEORGIA
Case No. S06C1682

Atlanta OCT 02 2006

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LOGIE W. TALLEY v. HOUSING AUTHORITY OF COLUMBUS, GEORGIA

Because the Court of Appeals denied Petitioner's motion for reconsideration on April 26, 2006, his petition for certiorari was due no later than May 16, 2006. However, it was not filed with this Court until June 3, 2006. Accordingly, as the petition is untimely, it hereby is dismissed.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and seal of said court hereto affixed the day and year last above written.

"s/Lionette Gidson" , Deputy Clerk

APPENDIX J

IN THE COURT OF APPEALS OF GEORGIA

LOGIE W. TALLEY

Appellant,

CASE NO. A06A0393

Vs.

THE HOUSING AUTHORITY

OF COLUMBUS, GEORGIA,

Appellee.

NOTICE OF FILING PETITION OF CERTIORARI

Comes now Appellant in the above appeal and shows he this day filed an application for certiorari with the Supreme Court of Georgia.

This the 28 day of April, 2006.

"s/Logie W. Talley"
Logie W. Talley
3825 Masseyville Rd.
Macon, Georgia 31217
(478) 747-8423

APPENDIX K

CLERK'S OFFICE
SUPREME COURT OF GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday – Friday, 8:30a.m. to 4:30 p.m.

Docketing Date: June 3, 2006

Logie W. Talley
3825 Masseyville Road
Macon, GA 31217-

Case No. S06C1682

LOGIE W. TALLEY v. HOUSING AUTHORITY OF COLUMBUS [*sic*], GEORGIA

A Petition for Certiorari in Court of Appeals Case No. A06A0393 has been docketed in the Supreme Court today and assigned the case number shown above.

Responses to petition for certiorari are encouraged and should be filed within **twenty** days of docketing (See Rule 42).

Sherie M. Welch, Clerk

APPENDIX L